

CC DO. 96-128

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FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON

May 15, 1998

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

EX PARTE OR LATE FILED

The Honorable Spencer Bachus  
U.S. House of Representatives  
442 Cannon House Office Building  
Washington, D.C. 20515

Dear Congressman Bachus:

Thank you for your letter concerning the Commission's decision regarding compensation for payphone owners.

Section 276 of the Telecommunications Act of 1996 (the Act) required the Commission to establish a plan by which payphone providers receive "fair compensation" for each and every completed intrastate and interstate call, including coinless 800 calls, that originate from their payphones. Prior to the Act, a payphone provider often received no compensation for these types of calls.

In order to fulfill Congress's mandate, the Commission in 1996 and 1997 conducted a four-step process (Notice of Proposed Rulemaking, Report and Order, Order on Reconsideration, and Second Report and Order) in the Payphone Reclassification Proceeding, CC Docket No. 96-128, during which the Commission solicited and reviewed 243 petitions, comments, and reply comments from the public. After carefully considering the petitions, comments, and reply comments, the Commission adopted rules that require interexchange carriers (IXCs) to compensate payphone providers 28.4 cents for each coinless 800 payphone call, unless the IXC and the provider have otherwise agreed to a different rate. The Commission concluded, based on the record evidence, that the default rate of 28.4 cents per call best approximated the market rate for such calls.

Tracking and shipping firms that use 800-call services have several options to avoid or minimize the cost of using payphone services. They can renegotiate their contract with the IXC that issued them the 800 number. In the alternative, they can exercise their portability rights and move their 800 number to another IXC, or acquire a new 800 number from another IXC. Finally, these firms generally have the option not to pay the per-call compensation by blocking calls from payphones. The call-tracking coding digits which IXCs require to block such calls currently are available from approximately eighty-six percent of payphones, and nearly all calls will be tracked by the end of the year. For those calls not blocked, however, the Commission requires that compensation be paid, as the law mandates.

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The Commission recently denied several parties' requests for a stay of the new payphone compensation rules. We determined that the rules, including the 28.4 cent per-call default rate, were likely to be affirmed on court review as consistent with section 276 of the Act; that a stay was not necessary to avoid irreparable harm to the petitioners; and that a stay would injure other interested parties and the public. The Commission's steps toward general deregulation of the IXC and payphone markets are designed to give firms like trucking and shipping services competitive options in the telecommunications market.

Further Commission action on the appropriate per-call default rate is pending. We will include your letter in the docket file on this proceeding and will give further consideration to your views. We appreciate your interest in these important issues. Please do not hesitate to contact us if we can provide further information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Will Kennard", with a stylized flourish at the end.

William E. Kennard  
Chairman

SPENCER T. BACHUS, III  
6TH DISTRICT, ALABAMA

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March 16, 1998

The Honorable William E. Kennard  
Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Chairman Kennard:

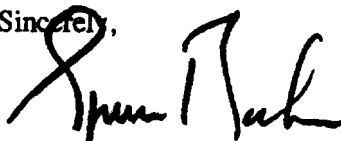
Recently the Federal Communications Commission issued a decision to allow pay telephone operators to collect fees from "800" number subscribers that receive calls from pay telephones.

While I understand the need to provide for compensation to pay telephone operators, the decision to set the fee for this service at 28.4 cents per call seems arbitrary and injurious to certain industries which must rely on the pay telephone network for its regular business functions. In particular, the nation's trucking and shipping companies will bear a large increase in costs due to this regulatory action by the Federal Communications Commission.

Initiating this price increase at such a high level on domestic industries virtually overnight does not allow them the opportunity to plan and budget for this new expense. It is my request that the Federal Communications Commission initiate actions to determine a more level approach to allowing pay telephone operators to recoup their investment.

Please provide me with a response so that I can provide further information on this issue to my constituents.

Sincerely,



Spencer Bachus  
Member of Congress

STB:tc